

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW HAMPSHIRE**

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**In Re:**

**Walter J. Dunfey, II,**

**Debtor**

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**Michael S. Askenaizer, Trustee,**

**Plaintiff**

**v.**

**Walter J. Dunfey, II**

**Defendant**

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**Chapter 7**

**Case No. 03-10819-MWV**

**Adversary No. 03-01530-mwv**

**TRUSTEE'S DISCLOSURE PURSUANT TO RULE 26(a)(3)**

Pursuant to F.R.Bankr. P. 7026 and F.R.Civ.P. 26(a)(3), the Trustee says as follows:

A. The Trustee identifies the following witnesses as persons he expects to present:

1. Walter J. Dunfey, II  
P.O. Box 664  
Portsmouth NH 038012-0664
2. Robert Wallace  
12 Rachel Drive  
Sanford ME 04073
3. Nancy Lacourse  
12 Rachel Drive  
Sanford 04073
4. An appropriate representative of U.S. Property Investment Fund, LP, whom the Trustee expects will be Greg Whalen, c/o

Christopher Grant  
Boynton, Waldron, Doleac et al  
P.O. Box 418  
82 Court Street  
Portsmouth NH 03801

5. Christopher Grant  
Boynton, Waldron, Doleac et al  
P.O. Box 418  
82 Court Street  
Portsmouth NH 03801
  6. George P. Walker  
c/o Bradley M. Lown  
Coughlin, Rainboth, Murphy & Lown  
439 Middle Street  
Portsmouth NH 03801
  7. Andrew Cole  
c/o Alexander G. Nossiff  
Nossiff & Giampa, P.C.  
24 Chestnut Street  
Dover NH 03820
  8. A representative of Key Bank
  9. Each of the witnesses listed on the Defendant's witness list.
- B. The Trustee may present the testimony of George P. Walker by deposition.
- C. The Trustee may present the testimony of Christopher Grant by deposition.
- D. The Trustee identifies the following documents as exhibits which the Trustee expects to offer into evidence:
1. Copy of an accounting sheet identifying funds paid to Robert Wallace by Western Union wire transfer;
  2. Lease by and between Dunfey Marine Enterprises, Inc. and U.S. Property Investment Funds, L.P.

3. UCC-1 financing statement held by Key Bank.
4. Writ and pleadings in the lawsuit brought by Andrew Cole against Walter Dunfey and Portsmouth Harbor Cruises, Inc.
5. Settlement Agreement by and between Mr. Cole, Mr. Dunfey and Portsmouth Harbor Cruises, Inc.
6. Bill of Sale and associated closing documents conveying the assets of Portsmouth Harbor Cruises, Inc.
7. Certified check dated on or about July 22, 2002 in the amount of \$90,000.
8. Bank account records from Bank of New Hampshire evidencing the opening of a bank account on or about July 22, 2002, and the deposit therein in the amount of \$90,000.
9. Canceled check payable to "Cash" dated on or about July 24, 2002 in the amount of \$89,900.
10. 341 meeting transcript or tape recordings.
11. Court records and registry evidencing attachments by Mr. Cole, Ms. James, Key Bank and U.S. Property Investment Funds, L.P.
12. Bill of Sale dated November 12, 2002 conveying the boat known as the John Wannamaker to SouthCoast Express, Inc.
13. Alternative Schedules A to the Bill of Sale.
14. Documents evidencing an expanded attachment obtained November 13, 2002.
15. Correspondence between Attorney Grant and Attorney Murphy on or about November, 2002.
16. A series of check payable by SouthCoast Express, Inc. to Walter J. Dunfey, II, Robert Wallace as agent, or Dunfey Marine Enterprises.
17. Order of the Rockingham County Superior Court dated on or about December 1, 2002 ordering Dunfey Marine Enterprises to pay proceeds from the sale of the John Wannamaker into court.

18. Check dated December 31, 2002 to Mr. Wallace made by SouthCoast Express, Inc.
19. Superior Court order dated March 5, 2003 concluding that Dunfey Marine Enterprises, Inc. should be regarded as a fiction and as perpetrator of fraud on creditors, and imposing liability for the Dunfey Marine Enterprises, Inc. obligations to the landlord directly upon Mr. Dunfey.
20. Each of the exhibits listed on the Defendant's Exhibit and Witness List made pursuant to F.R.Civ.P. 26(a)(3).

Respectfully submitted,  
MICHAEL S. ASKENAIZER, TRUSTEE

By his Attorneys  
FORD & WEAVER, P.A.

Dated: June 30, 2004

By: /s/ Edmond J. Ford  
Edmond J. Ford (BNH 01217)  
10 Pleasant Street, Suite 400  
Portsmouth, NH 03801  
603-433-2002 Telephone  
603-433-2122 Fax  
[eford@fordandweaver.com](mailto:eford@fordandweaver.com)

### **CERTIFICATE OF SERVICE**

I hereby certify that on June 30, 2004 a copy of the foregoing has been forwarded to the following parties:

Michael S. Askenaizer  
Law Offices of Michael S. Askenaizer  
60 Main Street  
Nashua NH 03060

Peter V. Doyle  
Shaines & McEachern  
P.O. Box 360  
25 Maplewood Avenue  
Portsmouth NH 03802-0360

Bradley M. Lown  
Coughlin, Rainboth, Murphy & Lown  
439 Middle Street  
Portsmouth NH 03801

Geraldine L. Karonis  
Assistant United States Trustee  
66 Hanover Street, Suite 302  
Manchester NH 03101

Christopher Grant  
Boynton, Waldron, Doleac et al  
P.O. Box 418  
82 Court Street  
Portsmouth NH 03802-0418

Walter J. Dunfey, II  
P.O. Box 664  
Portsmouth NH 03802-0664

/s/ Edmond J. Ford  
Edmond J. Ford

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